

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SAFECO INSURANCE COMPANIES,

Plaintiff,

v.

NEW ENGLAND FOUNDATION  
COMPANY, INC., PATRICK A. O'NEILL,  
and PATRICIA E. O'NEILL,

Defendants.

CIVIL ACTION NO. 1:04-CV-10989-NMG

**LR. 16.1(D) JOINT STATEMENT**

The plaintiff and the defendants jointly submit this LR. 16.1(D) Joint Statement.

**Joint Discovery Plan**

The parties have agreed to conduct non-phased discovery as follows:

1. The parties will serve all automatic disclosures pursuant to LR. 26.2 by September 16, 2005;
2. Once a party has served all automatic disclosures pursuant to LR. 26.2, that party may serve no more than 30 interrogatories (in no more than two separate sets) upon any party provided that such interrogatories are served no later than December 30, 2005.
3. Once a party has served all automatic disclosures pursuant to LR. 26.2, that party may serve requests for production of documents upon any party provided that such document requests are served no later than December 30, 2005;

4. Once a party has served all automatic disclosures pursuant to LR. 26.2, that party may serve no more than thirty requests for admissions (in no more than two separate sets) upon any party provided that such requests for admissions are served no later than December 30, 2005;

5. All responses to written discovery must be served within the timeframes and requirements of the Federal Rules of Civil Procedure, unless otherwise agreed by the parties or ordered by this Court. Unless agreed otherwise by the parties or ordered otherwise by this Court, no responses to written discovery may be served later than February 17, 2006;

6. All depositions must be noticed and completed no later than May 26, 2006;

7. Each party is entitled to take up to five depositions and the total hours of each party's combined depositions may not exceed 60 hours in total.

8. The plaintiff will disclose all trial experts no later than June 30, 2006;

9. The defendants will disclose any and all trial experts no later than July 28, 2006;  
and

10. All expert depositions will be noticed and completed no later than September 15, 2006.

11. The parties agree that the parties may modify any of the proposed discovery deadlines provided that the parties agree to such a modification in writing and provided that at least one of the parties notifies the Court in writing of the modification to the proposed discovery deadlines.

#### Proposed Motion Schedule

The parties agree that any motions to dismiss will be served and filed no later than October 3, 2005. The parties further agree that any motions for summary judgment shall be served and filed no later than October 2, 2006. The parties are unable to anticipate any other

motions at this time but agree that all pre-trial motions must be served and filed no later than October 2, 2006.

The parties agree that the parties may modify any of the proposed motion deadlines provided that the parties agree to such a modification in writing and provided that at least one of the parties notifies the Court in writing of the modification to the proposed motion deadlines.

Certifications

Plaintiff's Certification

Attached hereto as Exhibit 1.

Defendant's Certification

Attached hereto as Exhibit 2.

Respectfully submitted:

SAFECO INSURANCE COMPANIES,  
By its attorneys,

NEW ENGLAND FOUNDATION  
COMPANY, PATRICK A. O'NEILL and  
PATRICIA E. O'NEILL,  
By their attorneys,

/s/ Dwight T. Burns, III  
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Dated: August 12, 2005